



April 1, 2003

ENGROSSED HOUSE BILL No. 1545

DIGEST OF HB 1545 (Updated March 27, 2003 2:06 PM - DI 105)

Citations Affected: IC 6-8; IC 27-1; IC 27-7; IC 27-8; IC 35-43; noncode.

Synopsis: Insurance matters. Amends the law concerning insurance administrators and provides for reciprocity in the licensure of insurance administrators. Provides bonding requirements for resident surplus lines producer's licenses. Provides that notice of nonrenewal of a commercial property and casualty insurance policy or an automobile insurance policy is not required if the insured is transferred to an affiliate of the insurer in certain circumstances. Repeals a provision requiring a foreign or an alien insurance company to file an annual condensed statement of the insurer's assets and liabilities and providing for publication. Makes conforming amendments and a technical change.

Effective: July 1, 2003.

Fry, Ripley, Buck

(SENATE SPONSORS — PAUL, LANANE)

January 16, 2003, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 6, 2003, amended, reported — Do Pass.

February 10, 2003, read second time, ordered engrossed. Engrossed.

February 13, 2003, read third time, passed. Yeas 91, nays 0.

SENATE ACTION

February 24, 2003, read first time and referred to Committee on Insurance and Financial Institutions.

March 31, 2003, amended, reported favorably — Do Pass.

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EH 1545—LS 6904/DI 97+



April 1, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1545

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-8-11-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12. The following may
3 be an account administrator under this chapter:

4 (1) A federal or state chartered:

5 (A) bank;

6 (B) savings association;

7 (C) savings bank; or

8 (D) credit union.

9 (2) A trust company authorized to act as a fiduciary.

10 (3) An insurance company or a health maintenance organization
11 authorized to do business in Indiana under IC 27.

12 (4) A broker-dealer, an agent, or an investment advisor registered
13 under IC 23-2-1.

14 (5) A person (A) that holds a certificate of registration is licensed
15 as an insurance administrator or

16 (B) for whom the insurance commissioner has waived the
17 requirement of a certificate of registration as an insurance

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- 1 ~~administrator,~~
 2 under ~~IC 27-1-25-11~~ **IC 27-1-25**.
 3 (6) An employee welfare benefit plan that is governed by the
 4 federal Employee Retirement Income Security Act, 29 U.S.C.
 5 1001 et seq.
 6 (7) An employer that participates in the medical care savings
 7 account program.

8 SECTION 2. IC 27-1-15.8-4, AS ADDED BY P.L.132-2001,
 9 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2003]: Sec. 4. (a) During the period that a **resident** surplus
 11 lines producer's license is in effect, the licensee shall keep in force a
 12 bond in the penal sum of not less than twenty thousand dollars
 13 (\$20,000) with an authorized corporate surety approved by the
 14 commissioner. The aggregate liability of the surety for any and all
 15 claims on a bond does not exceed the penal sum of the bond. A bond
 16 may not be terminated unless written notice of termination is provided
 17 by the surety to the licensee and the commissioner not less than thirty
 18 (30) days before termination. Upon termination of a **resident** license
 19 for which a bond was in effect, the commissioner shall notify the surety
 20 of the termination within ten (10) business days. All surety protection
 21 under this section inures to the benefit of the state of Indiana to assure
 22 the payment of all premium taxes.

23 (b) A **resident** surplus lines producer shall, at the time of an initial
 24 filing under subsection (c), file with the commissioner proof of the
 25 bond in the amount required under subsection (a). In each subsequent
 26 calendar year, the **resident** surplus lines producer shall file proof that
 27 the bond remains in effect. A subsequent filing under this subsection
 28 shall be made in conjunction with the annual filing required under
 29 subsection (e).

30 (c) In addition to all other charges, fees, and taxes that may be
 31 imposed by law, a surplus lines producer licensed under this chapter
 32 shall, on or before February 1 and August 1 of each year, collect from
 33 the insured and remit to the department for the use and benefit of the
 34 state of Indiana an amount equal to two and one-half percent (2 1/2%)
 35 of all gross premiums upon all policies and contracts procured by the
 36 surplus lines producer under the provisions of this section during the
 37 preceding six (6) month period ending December 31 and June 30,
 38 respectively. The declarations page of a policy referred to in this
 39 subsection must itemize the amounts of all charges for taxes, fees, and
 40 premiums.

41 (d) A licensed surplus lines producer shall execute and file with the
 42 department of insurance on or before the twentieth day of each month



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an affidavit that specifies all transactions, policies, and contracts procured during the preceding calendar month, including:

- (1) the description and location of the insured property or risk and the name of the insured;
- (2) the gross premiums charged in the policy or contract;
- (3) the name and home office address of the insurer whose policy or contract is issued, and the kind of insurance effected; and
- (4) a statement that:

(A) the licensee, after diligent effort, was unable to procure from any insurer authorized to transact the particular class of insurance business in Indiana the full amount of insurance required to protect the insured; and

(B) the insurance placed under this chapter is not placed for the purpose of procuring it at a premium rate lower than would be accepted by an insurer authorized and licensed to transact insurance business in Indiana.

(e) A licensed surplus lines producer shall file with the department, not later than March 31 of each year, the financial statement, dated as of December 31 of the preceding year, of each unauthorized insurer from whom the surplus lines producer has procured a policy or contract. The insurance commissioner may, in the commissioner's discretion, after reviewing the financial statement of the unauthorized insurer, order the surplus lines producer to cancel an unauthorized insurer's policies and contracts if the commissioner is of the opinion that the financial statement or condition of the unauthorized insurer does not warrant continuance of the risk.

(f) A licensed surplus lines producer shall keep a separate account of all business transacted under this section. The account may be inspected at any time by the commissioner or the commissioner's deputy or examiner.

(g) An insurer that issues a policy or contract to insure a risk under this section is considered to have appointed the commissioner as the insurer's attorney upon whom process may be served in Indiana in any suit, action, or proceeding based upon or arising out of the policy or contract.

(h) The commissioner may revoke or refuse to renew a surplus lines producer's license for failure to comply with this section.

(i) A surplus lines producer licensed under this chapter may accept and place policies or contracts authorized under this section for an insurance producer duly licensed in Indiana, and may compensate the insurance producer even though the insurance producer is not licensed under this chapter.



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(j) If a surplus lines producer does not remit an amount due to the department within the time prescribed in subsection (c), the commissioner shall assess the surplus lines producer a penalty of ten percent (10%) of the amount due. The commissioner shall assess a further penalty of an additional one percent (1%) of the amount due for each month or portion of a month that any amount due remains unpaid after the first month. Penalties assessed under this subsection are payable by the surplus lines producer and are not collectible from an insured.

SECTION 3. IC 27-1-25-1, AS AMENDED BY P.L.132-2001, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. As used in this chapter:

(a) "Administrator", except as provided in section 7.5 of this chapter, means a person who **directly or indirectly underwrites**, collects charges or premiums from, or ~~who~~ adjusts or settles claims on residents of Indiana in connection with life, **annuity**, or health coverage ~~or annuities, whether offered or provided for by an insurer. or a self-funded plan~~. The term "administrator" does not include the following persons:

(1) An employer ~~for its or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees or~~ for the employees of: a

(A) the employer;

(B) the subsidiary; or

(C) an affiliated corporation of the employer.

(2) A union **acting** for its members.

(3) An insurer. ~~including:~~

(A) an insurer operating a health maintenance organization or a limited service health maintenance organization; and

(B) the sales representative of an insurer operating a health maintenance organization or a limited service health maintenance organization when that sales representative is licensed in Indiana and when it is engaged in the performance of its duties as the sales representative.

(4) ~~A life or health~~ An insurance **agent producer**:

(A) ~~that is~~ licensed under IC 27-1-15.6;

(B) ~~that has~~:

(i) a life; or

(ii) an accident and health or sickness;

qualification under IC 27-1-15.6-7; and

(C) whose activities are limited exclusively to the sale of insurance.



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(5) A creditor **acting** for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities **to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.**

(9) A credit card issuing company that:

(A) advances for; and

(B) **collects from, when a credit card holder authorizes the collection;**

credit card holders of the credit card issuing company, insurance premiums or charges. ~~from its credit cardholders as long as that company does not adjust or settle claims.~~

(10) ~~An individual who~~ **A person that** adjusts or settles claims in the normal course of ~~his~~ **the person's** practice or employment as an attorney at law and ~~who that~~ does not collect charges or premiums in connection with life, **annuity**, or health ~~insurance~~ coverage. ~~or annuities.~~

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) A person that:

(A) is licensed as a managing general agent as required under IC 27-1-33; and

(B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).

(15) A person that:

(A) directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of

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Indiana in connection with life, annuity, or health coverage provided by an insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the insurer.

(b) "Certificate of registration" refers to the certificate required by section 11 of this chapter.

(b) "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or is controlled by; or

(2) is under common control with;

a specified entity or person.

(c) "Church plan" has the meaning set forth in IC 27-8-10-1.

(d) "Commissioner" refers to the insurance commissioner or insurance appointed under IC 27-1-1-2.

(e) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether:

(1) through ownership of voting securities;

(2) by contract other than a commercial contract for goods or nonmanagement services; or

(3) otherwise;

unless the power is the result of an official position with the person or a corporate office held by the person. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing not less than ten percent (10%) of the voting securities of another person.

(f) "Covered individual" means an individual who is covered under a benefit program provided by an insurer.

(g) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(h) "GAAP" refers to consistently applied United States generally accepted accounting principles.

(i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

(j) "Home state" means the District of Columbia or any state or territory of the United States in which an administrator is incorporated or maintains the administrator's principal place of business. If the place in which the administrator is incorporated or maintains the administrator's principal place of business is not



governed by a law that is substantially similar to this chapter, the administrator's home state is another state:

(1) in which the administrator conducts the business of the administrator; and

(2) that the administrator declares is the administrator's home state.

(k) "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.

(l) "Insurer" means:

(1) a person who obtains a certificate of authority under:

(A) IC 27-1-3-20;

(B) IC 27-13-3; or

(C) IC 27-13-34; or

(2) an employer that provides life, health, or annuity coverage in Indiana under a governmental plan or a church plan.

(m) "NAIC" refers to the National Association of Insurance Commissioners.

(n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.

(o) "Nonresident administrator" means a person that applies for or holds a license under section 12.2 of this chapter.

(p) "Person" means an individual; a corporation; a partnership; a limited liability company; or an unincorporated association.

(g) "Self-funded plan" means a plan for providing benefits for life, health, or annuity coverage by a person who is not an insurer: has the meaning set forth in IC 27-1-15.6-2.

(q) "Sell" has the meaning set forth in IC 27-1-15.6-2.

(r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.

(s) "Underwrite" refers to the:

(1) acceptance of a group application or an individual application for coverage of an individual in accordance with the written rules of the insurer; or

(2) planning and coordination of a benefit program provided by an insurer.

(t) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

SECTION 4. IC 27-1-25-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) An administrator may act only if there is a written agreement between the administrator and an insurer, employer, employee group, or any other group using the services of an administrator. This agreement must conform to the requirements of sections 4 through 9 of this chapter, which apply to the functions performed by the administrator.



(b) An agreement between an administrator and an insurer ~~employer, employee group, or any other group~~ must be retained by both parties as part of their official records for a period of not less than five (5) years after the termination of the agreement.

(c) When a policy is issued to a trustee, a copy of the trust agreement and all amendments to it must be:

(1) furnished by the administrator to the insurer ~~employer, employee group, or any other group~~ with which it holds a contract **the administrator has a written agreement;** and

(2) retained as part of the official records of the administrator for a period of not less than five (5) years after the termination of the trust.

(d) The written agreement **required under subsection (a)** must:

(1) include a statement of functions that the administrator will perform on behalf of the insurer;

(2) specify the lines, classes, or types of coverage that the administrator is authorized to administer on behalf of the insurer; and

(3) contain provisions concerning the standard of underwriting required by the insurer. ~~employer, employee group, or any other group that is a party to the agreement.~~

(e) The commissioner may require any written agreement executed by an administrator and an insurer ~~employer, employee group, or any other group~~ to be filed with the department of insurance at the time the administrator applies for a ~~certificate of registration, as required by section 11 of license~~ **under** this chapter. The commissioner may require any written agreement executed subsequent to the original issue of the ~~certificate of registration license~~ to the administrator to be filed with the department at the time the administrator is applying for renewal of the ~~certificate of registration license.~~

(f) An administrator or insurer may, with written notice, terminate a written agreement for cause as provided in the written agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of a dispute regarding the cause for termination of the written agreement. The insurer shall fulfill lawful obligations with respect to coverage affected by the written agreement, regardless of a dispute described in this subsection.

SECTION 5. IC 27-1-25-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If an insurer utilizes the services of an administrator:

(1) ~~the payment to the administrator~~ of premiums or charges for



1 ~~insurance coverage paid~~ by or on behalf of the ~~insured covered~~
 2 ~~individual~~ are ~~presumed considered~~ to have been received by the
 3 insurer ~~when paid to the administrator~~; and

4 (2) ~~the payment of~~ claims or return premiums ~~paid~~ by the insurer
 5 to the administrator are not ~~presumed considered~~ to have been
 6 paid to the ~~insured covered individual~~ or claimant until the
 7 payment is received by the ~~insured covered individual~~ or
 8 claimant.

9 (b) This section does not limit the rights of an insurer against an
 10 administrator resulting from the failure of the administrator to make
 11 payments to the insurer, ~~insured parties~~, ~~covered individuals~~, or
 12 claimants.

13 SECTION 6. IC 27-1-25-4 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) ~~For the duration~~
 15 ~~of the agreement and for five (5) years after the termination of an~~
 16 ~~agreement~~; An administrator: or successor administrator:

17 (1) shall maintain at its principal administrative office books and
 18 records of all transactions between it ~~the administrator and~~
 19 insurers ~~employers~~; ~~employee group~~; or any other group using the
 20 ~~services of an administrator for at least five (5) years after the~~
 21 ~~creation of the books and records~~; or

22 (2) may transfer the books and records of transactions
 23 between the administrator and an insurer with which the
 24 administrator has entered into a written agreement under
 25 section 2 of this chapter to a new administrator if:

26 (A) the agreement between the administrator and the
 27 insurer is canceled; and

28 (B) a written agreement for a transfer of the books and
 29 records is made between the administrator and the
 30 insurer.

31 If the books and records are transferred to a new administrator
 32 under subdivision (2), the new administrator shall acknowledge in
 33 writing that the new administrator is responsible for retaining the
 34 books and records of the prior administrator as required under
 35 subdivision (1). The books and records must be maintained in
 36 accordance with generally accepted standards of insurance
 37 ~~bookkeeping~~; record keeping.

38 (b) The commissioner is entitled to inspect all books and records of
 39 the administrator for the purpose of examinations and audits. Trade
 40 secrets contained within those books and records, including the identity
 41 and addresses of policyholders and certificate holders, are to remain
 42 confidential. However, the commissioner may use that confidential

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information in proceedings instituted against the administrator.

(c) Any insurer, employer, employee group, or any other group using the services of the administrator is entitled to inspect the books and records of the administrator to the extent necessary for it to fulfill all of its contractual obligations to insured or covered persons. The right of the insurer, employer, employee group, or other group using the services of an administrator under this subsection is subject to any restrictions contained in the written agreement between such party and administrator.

(c) An insurer is the owner of records that:

(1) are generated by an administrator with which the insurer has entered into a written agreement under section 2 of this chapter; and

(2) pertain to the insurer.

However, the administrator retains the right to continuing access to books and records necessary to fulfill the administrator's contractual obligations to covered individuals, claimants, and the insurer.

(d) An administrator that is licensed under section 11.1 of this chapter shall make available for inspection by the commissioner copies of written agreements with insurers.

(e) An administrator that is licensed under section 11.1 of this chapter shall:

(1) produce the administrator's accounts, records, and files for examination; and

(2) make the administrator's officers available to provide information concerning the affairs of the administrator;

whenever reasonably required by the commissioner.

(f) An administrator that is licensed under section 11.1 of this chapter shall immediately notify the commissioner of a material change in:

(1) the ownership or control of the administrator; or

(2) another fact or circumstance that affects the administrator's qualification for a license.

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that is licensed under section 11.1 of this chapter and that administers a governmental plan or a church plan shall maintain a surety bond:

(1) for the use and benefit of:

(A) the commissioner; and



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1 (B) the insurance regulator of any state in which the
 2 administrator is authorized to conduct business; and
 3 (2) that covers an individual and a person that has remitted
 4 premiums, insurance, charges, or other money to the
 5 administrator in the course of the administrator's business;
 6 in an amount equal to the greater of one hundred thousand dollars
 7 (\$100,000) or ten percent (10%) of the total of funds administered
 8 in connection with governmental plans or church plans in Indiana
 9 and all other states in which the administrator is authorized to
 10 conduct business.

11 SECTION 7. IC 27-1-25-5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. An administrator
 13 may use advertising relating to the business underwritten by an insurer
 14 only to the extent that the advertising has been approved **in writing** by
 15 that insurer **before the advertising is used**.

16 SECTION 8. IC 27-1-25-5.5 IS ADDED TO THE INDIANA CODE
 17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 18 1, 2003]: Sec. 5.5. (a) If an insurer uses the services of an
 19 administrator, the insurer is responsible for:

- 20 (1) determining the:
 21 (A) benefits;
 22 (B) premium rates;
 23 (C) underwriting criteria; and
 24 (D) claims payment procedures;
 25 that apply to the coverage; and
 26 (2) securing reinsurance.

27 (b) An insurer shall provide to an administrator, with the
 28 written agreement required under section 2 of this chapter:

- 29 (1) the rules that the administrator must follow in
 30 administering the coverage, as determined under subsection
 31 (a); and
 32 (2) the responsibilities of the administrator as to
 33 administering the coverage.

34 (c) An insurer that uses the services of an administrator has sole
 35 responsibility for the competent administration of benefit
 36 programs provided by the insurer.

37 (d) If an administrator administers benefits for more than one
 38 hundred (100) covered individuals on behalf of an insurer, the
 39 insurer shall, not less than semiannually, review the operations of
 40 the administrator. At least one (1) of the semiannual reviews must
 41 be an onsite audit of the operations of the administrator.

42 SECTION 9. IC 27-1-25-6 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An administrator
 2 is a fiduciary in collecting or returning premiums or charges for the
 3 ~~party insurer~~ with whom it has a written agreement for administrative
 4 services.

5 (b) Funds collected by the administrator shall be immediately
 6 remitted to the person entitled to the funds or deposited in a fiduciary
 7 ~~bank~~ account, which shall be established and maintained by the
 8 administrator **in a federally insured or state insured financial**
 9 **institution.**

10 (c) The administrator shall maintain records clearly showing the
 11 deposits and withdrawals from the fiduciary ~~bank~~ account for each
 12 ~~party insurer~~ with whom it has a written agreement for administrative
 13 services. The administrator shall furnish to the ~~party insurer~~:

14 (1) upon ~~his~~ **the insurer's** request, copies of the required records;
 15 **and**

16 (2) **at intervals specified in the written agreement, a periodic**
 17 **accounting of transactions performed by the administrator**
 18 **pertaining to the business underwritten by the insurer.**

19 (d) Subject to the written agreement required by section 2 of this
 20 chapter, withdrawals from the fiduciary ~~bank~~ account shall only be
 21 made for the following:

22 (1) Remittance to an insurer entitled to the funds.

23 (2) Deposit in an account maintained in the name of the ~~party~~
 24 **insurer** with whom the administrator has a written agreement.

25 (3) Transfer to and deposit in a claims paying account, with
 26 claims to be paid as required under section 7 of this chapter.

27 (4) Payment to a group policyholder for remittance to the insurer
 28 entitled to the funds.

29 (5) Payment to the administrator for its commission, fees, or
 30 charges.

31 (6) Remittance of return premiums to the person entitled to the
 32 funds.

33 (e) An administrator may not pay any claim with money withdrawn
 34 from a fiduciary account established under subsection (b) in which
 35 premiums or charges are deposited.

36 SECTION 10. IC 27-1-25-7 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. All claims paid by
 38 an administrator from funds collected on behalf of an insurer shall only
 39 be paid on drafts **or checks** authorized by the insurer. ~~All claims paid~~
 40 ~~by the administrator from funds collected on behalf of an employer, an~~
 41 ~~employee group, or any other group shall only be paid on drafts~~
 42 ~~authorized by that party.~~



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SECTION 11. IC 27-1-25-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~When an administrator adjusts or settles claims under a policy the administrator's compensation for that policy may not be contingent on claim experience. However, the compensation for an administrator may be based on premiums or charges collected or on the number of claims paid or processed.~~ (a) **An administrator may not enter into an agreement or understanding with an insurer if the effect of the agreement or understanding is to make the amount of a:**

(1) commission;

(2) fee; or

(3) charge;

that is payable to the administrator contingent on savings effected in the adjustment, settlement, and payment of losses covered by the insurer's obligations.

(b) This section does not prevent an administrator from receiving performance based compensation for providing hospital auditing services or other auditing services.

SECTION 12. IC 27-1-25-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. Policies, certificates, booklets, termination notices, or other written communications delivered by an insurer to an administrator for delivery to its ~~policyholders~~ **covered individuals** shall be delivered by the administrator promptly after receipt of instructions from the insurer to do so.

SECTION 13. IC 27-1-25-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) An administrator having a written agreement with an insurer shall provide written notice, which must first be approved by the insurer, ~~to the insured covered~~ **persons** advising them of the relationship among the administrator, the ~~policyholder covered person~~, and the insurer.

~~(b) An administrator having a written agreement with an employer, an employee group, or any other group shall provide written notice, which must first be approved by that party, to the insured persons advising them of the relationship among the administrator, the policyholder, and the employer, the employee group, or any other group.~~

~~(c)~~ **(b)** When the administrator collects premiums or charges, the administrator shall state separately the amount of any premium or charge for ~~insurance~~ coverage specified by the insurer to the person paying the premium or charge. **Additional charges may not be made for a service to the extent that the charge for the service has been**



1 paid by the insurer.

2 (c) The administrator shall disclose to the insurer:

3 (1) charges;

4 (2) fees; and

5 (3) commissions;

6 received by the administrator in connection with the provision of
7 administrative services for the insurer, including fees or
8 commissions paid by insurers that provide reinsurance.

9 SECTION 14. IC 27-1-25-11.1 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2003]: Sec. 11.1. (a) If the home state of a
12 person is Indiana, the person shall:

13 (1) apply to act as an administrator in Indiana upon the
14 uniform application; and

15 (2) receive a license from the commissioner;

16 before performing the function of an administrator in Indiana.

17 (b) The uniform application must include or be accompanied by
18 the following:

19 (1) Basic organizational documents of the applicant,
20 including:

21 (A) articles of incorporation;

22 (B) articles of association;

23 (C) partnership agreement;

24 (D) trade name certificate;

25 (E) trust agreement;

26 (F) shareholder agreement;

27 (G) other applicable documents; and

28 (H) amendments to the documents specified in clauses (A)
29 through (G).

30 (2) Bylaws, rules, regulations, or other documents that
31 regulate the internal affairs of the applicant.

32 (3) The NAIC biographical affidavits for individuals who are
33 responsible for the conduct of affairs of the applicant,
34 including:

35 (A) members of the applicant's:

36 (i) board of directors;

37 (ii) board of trustees;

38 (iii) executive committee; or

39 (iv) other governing board or committee;

40 (B) principal officers, if the applicant is a corporation;

41 (C) partners or members, if the applicant is:

42 (i) a partnership;

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- 1 (ii) an association; or
 2 (iii) a limited liability company;
 3 (D) shareholders or members that hold, directly or
 4 indirectly, at least ten percent (10%) of the:
 5 (i) voting stock;
 6 (ii) voting securities; or
 7 (iii) voting interest;
 8 of the applicant; and
 9 (E) any other person who exercises control or influence
 10 over the affairs of the applicant.
 11 (4) Financial information reflecting a positive net worth,
 12 including:
 13 (A) audited annual financial statements prepared by an
 14 independent certified public accountant for the two (2)
 15 most recent fiscal years; or
 16 (B) if the applicant has been in business for less than two
 17 (2) fiscal years, financial statements or reports that are:
 18 (i) prepared in accordance with GAAP; and
 19 (ii) certified by an officer of the applicant;
 20 for any completed fiscal years and for any month during
 21 the current fiscal year for which financial statements or
 22 reports have been completed.
 23 If an audited financial statement or report required under
 24 clause (A) or (B) is prepared on a consolidated basis, the
 25 statement or report must include a columnar consolidating or
 26 combining worksheet that includes the amounts shown on the
 27 consolidated audited financial statement or report, separately
 28 reported on the worksheet for each entity included on the
 29 statement or report, and an explanation of consolidating and
 30 eliminating entries.
 31 (5) Information determined by the commissioner to be
 32 necessary for a review of the current financial condition of the
 33 applicant.
 34 (6) A description of the business plan of the applicant,
 35 including:
 36 (A) information on staffing levels and activities proposed
 37 in Indiana and nationwide; and
 38 (B) details concerning the applicant's ability to provide a
 39 sufficient number of experienced and qualified personnel
 40 for:
 41 (i) claims processing;
 42 (ii) record keeping; and

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- 1 (iii) underwriting.
- 2 (7) Any other information required by the commissioner.
- 3 (c) An administrator that applies for licensure under this section
- 4 shall make copies of written agreements with insurers available for
- 5 inspection by the commissioner.
- 6 (d) An administrator that applies for licensure under this
- 7 section shall:
- 8 (1) produce the administrator's accounts, records, and files
- 9 for examination; and
- 10 (2) make the administrator's officers available to provide
- 11 information concerning the affairs of the administrator;
- 12 whenever reasonably required by the commissioner.
- 13 (e) The commissioner may refuse to issue a license under this
- 14 section if the commissioner determines that:
- 15 (1) the administrator or an individual who is responsible for
- 16 the conduct of the affairs of the administrator:
- 17 (A) is not:
- 18 (i) competent;
- 19 (ii) trustworthy;
- 20 (iii) financially responsible; or
- 21 (iv) of good personal and business reputation; or
- 22 (B) has had an:
- 23 (i) insurance certificate of authority or insurance license;
- 24 or
- 25 (ii) administrator certificate of authority or
- 26 administrator license;
- 27 denied or revoked for cause by any jurisdiction;
- 28 (2) the financial information provided under subsection (b)(4)
- 29 does not reflect that the applicant has a positive net worth; or
- 30 (3) any of the grounds set forth in section 12.4 of this chapter
- 31 exists with respect to the administrator.
- 32 (f) An administrator that applies for a license under this section
- 33 shall immediately notify the commissioner of a material change in:
- 34 (1) the ownership or control of the administrator; or
- 35 (2) another fact or circumstance that affects the
- 36 administrator's qualification for a license.
- 37 The commissioner, upon receiving notice under this subsection,
- 38 shall report the change to an electronic data base maintained by
- 39 the NAIC or an affiliate or a subsidiary of the NAIC.
- 40 (g) An administrator that applies for a license under this section
- 41 and will administer a governmental plan or a church plan shall
- 42 obtain a surety bond as required under section 4(g) of this chapter.

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(h) A license that is issued under this section is valid until:

(1) the license is:

(A) surrendered; or

(B) suspended or revoked by the commissioner; or

(2) the administrator:

(A) ceases to do business in Indiana; or

(B) is not in compliance with this chapter.

SECTION 15. IC 27-1-25-12.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 12.2. (a) An administrator that:**

(1) performs the duties of an administrator in Indiana; and

(2) does not hold a license issued under section 11.1 of this chapter;

shall obtain a nonresident administrator license under this section by filing a uniform application with the commissioner.

(b) Unless the commissioner verifies the nonresident administrator's home state license status through an electronic data base maintained by the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform application filed under subsection (a) must be accompanied by a letter of certification from the nonresident administrator's home state, verifying that the nonresident administrator holds a resident administrator license in the home state.

(c) A nonresident administrator is not eligible for a nonresident administrator license under this section unless the nonresident administrator is licensed as a resident administrator in a home state that has a law or regulation that is substantially similar to this chapter.

(d) Except as provided in subsections (b) and (h), the commissioner shall issue a nonresident administrator license to a nonresident administrator that makes a filing under subsections (a) and (b) upon receipt of the filing.

(e) Unless a nonresident administrator is notified by the commissioner that the commissioner is able to verify the nonresident administrator's home state licensure through an electronic data base described in subsection (b), the nonresident administrator shall:

(1) on September 15 of each year, file a statement with the commissioner affirming that the nonresident administrator maintains a current license in the nonresident administrator's home state; and

(2) pay a filing fee as required by the commissioner.



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1 (f) A nonresident administrator that applies for licensure under
2 this section shall:

- 3 (1) produce the accounts of the nonresident administrator;
4 (2) produce the records and files of the nonresident
5 administrator for examination; and
6 (3) make the officers of the nonresident administrator
7 available to provide information with respect to the affairs of
8 the nonresident administrator;

9 when reasonably required by the commissioner.

10 (g) A nonresident administrator is not required to hold a
11 nonresident administrator license in Indiana if the nonresident
12 administrator's function in Indiana is limited to the administration
13 of life, health, or annuity coverage for a total of not more than one
14 hundred (100) Indiana residents.

15 (h) The commissioner may refuse to issue or may delay the
16 issuance of a nonresident administrator license if the commissioner
17 determines that:

- 18 (1) due to events occurring; or
19 (2) based on information obtained;

20 after the nonresident administrator's home state's licensure of the
21 nonresident administrator, the nonresident administrator is unable
22 to comply with this chapter or grounds exist for the home state's
23 revocation or suspension of the nonresident administrator's home
24 state license.

25 (i) If the commissioner makes a determination described in
26 subsection (h), the commissioner:

- 27 (1) shall provide written notice of the determination to the
28 insurance regulator of the nonresident administrator's home
29 state; and
30 (2) may delay the issuance of a nonresident administrator
31 license to the nonresident administrator until the
32 commissioner determines that the nonresident administrator
33 is able to comply with this chapter and that grounds do not
34 exist for the home state's revocation or suspension of the
35 nonresident administrator's home state license.

36 SECTION 16. IC 27-1-25-12.3 IS ADDED TO THE INDIANA
37 CODE AS A NEW SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2003]: Sec. 12.3. (a) An administrator that is
39 licensed under section 11.1 of this chapter shall, not later than July
40 1 of each year unless the commissioner grants an extension of time
41 for good cause, file a report for the previous calendar year that
42 complies with the following:

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(1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4) of this chapter.

(2) The report must be in the form and contain matters prescribed by the commissioner.

(3) The report must be verified by at least two (2) officers of the administrator.

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee determined by the commissioner.

(b) The commissioner shall review a report filed under subsection (a) not later than September 1 of the year in which the report is filed. Upon completion of the review, the commissioner shall:

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC:

(A) indicating that the administrator is solvent and in compliance with this chapter; or

(B) noting deficiencies found in the report.

SECTION 17. IC 27-1-25-12.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 12.4. (a) The commissioner shall deny, suspend, or revoke a license issued under this chapter if the commissioner determines that the administrator:

(1) is in unsound financial condition;

(2) engages in methods or practices in the conduct of the administrator's business so as to render the administrator's continued transaction of business in Indiana hazardous or injurious to covered persons or the public; or

(3) fails to pay a judgment rendered against the administrator in Indiana not more than sixty (60) days after the judgment is final.

(b) The commissioner may deny, suspend, or revoke a license



issued under this chapter if the commissioner determines that:

- (1) the administrator has violated a lawful rule or order of the commissioner or a provision of the insurance laws of Indiana;
- (2) the administrator refuses to be examined or to produce the administrator's accounts, records, and files for examination;
- (3) an individual who is responsible for the conduct of the affairs of the administrator, including:

- (A) a member of the administrator's:

- (i) board of directors;
- (ii) board of trustees;
- (iii) executive committee; or
- (iv) other governing board or committee;

- (B) a principal officer, if the administrator is a corporation;

- (C) a partner or member, if the administrator is:

- (i) a partnership;
- (ii) an association; or
- (iii) a limited liability company;

- (D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:

- (i) voting stock;
- (ii) voting securities; or
- (iii) voting interest;

- of the administrator; or

- (E) any other person who exercises control or influence over the affairs of the administrator;

refuses to provide information with respect to the administrator's business or to perform another legal obligation with respect to an examination when required by the commissioner;

(4) the administrator, without just cause:

- (A) refuses to pay proper claims or to perform services arising under a written agreement;

- (B) causes a covered individual to accept less than the amount due to the covered individual; or

- (C) causes a covered individual to employ an attorney or bring suit against the administrator to secure full payment or settlement of a proper claim;

(5) the administrator fails to meet a qualification for which issuance of the administrator's license could have been refused if the failure had existed and been known by the commissioner at the time of license issuance;

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(6) an individual who is responsible for the conduct of the affairs of the administrator, including:

(A) a member of the administrator's:

- (i) board of directors;
- (ii) board of trustees;
- (iii) executive committee; or
- (iv) other governing board or committee;

(B) a principal officer, if the administrator is a corporation;

(C) a partner or member, if the administrator is:

- (i) a partnership;
- (ii) an association; or
- (iii) a limited liability company;

(D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:

- (i) voting stock;
- (ii) voting securities; or
- (iii) voting interest;

of the administrator; or

(E) any other person who exercises control or influence over the affairs of the administrator;

is convicted of or enters a plea of guilty or nolo contendere to a felony, without regard to whether adjudication is withheld;

(7) the administrator's license has been suspended or revoked in another state; or

(8) the administrator fails to timely file the:

- (A) report required under section 12.3 of this chapter; or
- (B) statement and pay the filing fee required under section 12.2(e) of this chapter.

(c) The commissioner may, in the commissioner's discretion and without advance notice or hearing, immediately suspend the license of an administrator if the commissioner finds one (1) or more of the following:

- (1) The administrator is insolvent or financially impaired.
- (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state.
- (3) The financial condition or business practices of the administrator pose an imminent threat to the public health, safety, or welfare of residents of Indiana.

(d) If the commissioner determines that cause exists for the suspension or revocation of a license issued under this chapter, the



1 commissioner may, instead of suspension or revocation, impose a
 2 civil penalty not to exceed twenty-five thousand dollars (\$25,000)
 3 per act or violation upon the administrator. A civil penalty
 4 imposed under this subsection may be enforced in the same
 5 manner as a civil judgment. Civil penalties collected under this
 6 subsection shall be deposited in the state general fund.

7 SECTION 18. IC 27-1-25-13 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 13. (a) Except as
 9 provided by section 4(b) of this chapter, and except that all provisions
 10 of the written agreement between the administrator and an insurer
 11 ~~employer, employee group, or any other group using the services of an~~
 12 ~~administrator~~ shall be treated by the commissioner as confidential and
 13 shall not be open to any member of the public for inspection or
 14 copying, all documents submitted to the commissioner under this
 15 chapter are public documents:

- 16 (1) when filed by the commissioner; or
- 17 (2) thirty (30) days after their receipt by the department.

18 (b) Any financial information concerning an administrator
 19 submitted by an administrator to the commissioner must remain
 20 confidential and is not open to any member of the public for inspection
 21 or copying. However, the commissioner may use the financial
 22 information in a proceeding under section ~~11(b)~~ 12.4 of this chapter.

23 SECTION 19. IC 27-1-25-15 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) An
 25 administrator acting without ~~the certificate of registration required~~
 26 ~~under section 11 of a license issued under~~ this chapter commits a
 27 Class C infraction.

28 (b) The commissioner shall notify the prosecuting attorney or the
 29 attorney general of Indiana of violations **under subsection (a).**

30 SECTION 20. IC 27-1-25-16 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2003]: Sec. 16. (a) **A presumption of control**
 33 **arising under section 1(e) of this chapter may be rebutted by a**
 34 **showing made in the manner provided under IC 27-1-23-3(k) that**
 35 **control does not exist in fact.**

36 (b) **In the absence of a presumption that control exists in fact,**
 37 **the commissioner may determine that control exists in fact after:**

- 38 (1) **providing notice and an opportunity to be heard under**
 39 **IC 4-21.5 to all interested parties; and**
- 40 (2) **making specific findings of fact to support the**
 41 **determination.**

42 SECTION 21. IC 27-1-25.1 IS ADDED TO THE INDIANA CODE



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AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 25.1. Certain Insurer Responsibilities

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 27-1-25-1(b).

Sec. 2. As used in this chapter, "insurer" has the meaning set forth in IC 27-1-25-1(l).

Sec. 3. As used in this chapter, "person" refers to a person described in IC 27-1-25-1(a)(15).

Sec. 4. The insurer with which a person is affiliated is responsible for:

(1) the acts of the person; and

(2) providing the person's books and records to the commissioner.

SECTION 22. IC 27-1-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) If an insurer refuses to renew a policy of insurance written by the insurer, the insurer shall provide written notice of nonrenewal to the insured:

(1) at least forty-five (45) days before the expiration date of the policy, if the coverage provided is for one (1) year, or less; or

(2) at least forty-five (45) days before the anniversary date of the policy, if the coverage provided is for more than one (1) year.

(b) A notice of nonrenewal is not required if:

(1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;

(2) the transfer results in the same or broader coverage; and

(3) the insured approves the transfer.

SECTION 23. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an agent duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to such agent at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by such agent.

This section shall not apply: (a) if the insurer has manifested its willingness to renew; nor (b) in case of nonpayment of premium: Provided, That, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any



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other insurance policy with respect to any automobile designated in both policies. **A notice of intention not to renew is not required if:**

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;**
- (2) the transfer results in the same or broader coverage; and**
- (3) the insured approves the transfer.**

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

SECTION 24. IC 27-8-16-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) As used in this chapter, "claim review agent" means any entity performing medical claims review on behalf of an insurance company, a health maintenance organization, or another benefit program providing payment, reimbursement, or indemnification for health care costs to an enrollee.

(b) The term does not include the following:

- (1) An insurance company authorized under IC 27-1-3 or IC 27-1-17 to do business in Indiana or the company's affiliated companies.
- (2) An entity acting on behalf of the federal or state government. However, an agent described in this subdivision who performs medical claims review for a person other than the federal or state government is a claim review agent who is subject to the requirements of this chapter.
- (3) A health maintenance organization or limited service health maintenance organization that holds a certificate of authority to operate under IC 27-13.
- (4) An insurance administrator that ~~holds a certificate of registration issued~~ **is licensed** under IC 27-1-25.
- (5) An individual qualified and acting as an expert witness under the Indiana Rules of Trial Procedure.

SECTION 25. IC 27-8-16-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1.5. (a) As used in this chapter, "claim review consultant" means a person who:

- (1) makes a recommendation or provides consultation to:
 - (A) an entity engaged in performing medical claims review; or
 - (B) an insurance company, a health maintenance organization, or another benefit program providing payment, reimbursement, or indemnification for health care costs to an enrollee;



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concerning the appropriateness of a health care service or the amount charged for a health care service delivered to an enrollee in Indiana; and

(2) is not an employee of an entity referred to in subdivision (1)(A) or (1)(B).

(b) Making a recommendation or providing consultation concerning a health care service does not render a person a claim review consultant under this section if the recommendation or consultation concerns:

(1) coverage provided; or

(2) medical services rendered;

under IC 22.

(c) The term "claim review consultant" does not include the following:

(1) An insurance company authorized under IC 27 to do business in Indiana.

(2) An entity acting on behalf of the federal or state government. However, an agent described in this subdivision who performs medical claims review for a person other than the federal or state government is a claim review agent who is subject to the requirements of this chapter.

(3) A health maintenance organization or limited service health maintenance organization that holds a certificate of authority to operate under IC 27-13.

(4) An insurance administrator ~~who holds a certificate of registration issued~~ **that is licensed** under IC 27-1-25.

(5) An individual qualified and acting as an expert witness under the Indiana Rules of Trial Procedure.

(6) A person who engages in the prospective, concurrent, or retrospective utilization review of health care services.

(7) A person who engages in the identification of alternative, optional medical care that:

(A) requires the approval of the enrollee or covered individual; and

(B) does not affect coverage or benefits if rejected by the enrollee or covered individual.

(8) An individual who is a licensed health care provider who makes a recommendation or provides consultation concerning the appropriateness of health care service. However, this exception does not apply if the individual:

(A) makes any recommendations or provides consultation concerning the amount charged for a health care service delivered in Indiana;

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(B) makes any recommendations or provides consultation concerning the appropriateness of hospital services provided by a hospital licensed under IC 12-25 or IC 16-21;

(C) is employed by or under contract with an entity that is required to be registered under this chapter; or

(D) has received more than five thousand dollars (\$5,000) in compensation during the present calendar year for providing consultation services concerning the appropriateness of health care services delivered to enrollees in Indiana.

(9) A claim review agent under section 1 of this chapter.

SECTION 26. IC 35-43-5-1, AS AMENDED BY P.L.180-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Claim statement" means an insurance policy, a document, or a statement made in support of or in opposition to a claim for payment or other benefit under an insurance policy, or other evidence of expense, injury, or loss. The term includes statements made orally, in writing, or as a computer generated document, including the following:

- (1) An account.
- (2) A bill for services.
- (3) A bill of lading.
- (4) A claim.
- (5) A diagnosis.
- (6) An estimate of property damages.
- (7) A hospital record.
- (8) An invoice.
- (9) A notice.
- (10) A proof of loss.
- (11) A receipt for payment.
- (12) A physician's records.
- (13) A prescription.
- (14) A statement.
- (15) A test result.
- (16) X-rays.

(c) "Coin machine" means a coin box, vending machine, or other mechanical or electronic device or receptacle designed:

- (1) to receive a coin, bill, or token made for that purpose; and
- (2) in return for the insertion or deposit of a coin, bill, or token automatically:

(A) to offer, provide, or assist in providing; or

(B) to permit the acquisition of;



- 1 some property.
- 2 (d) "Credit card" means an instrument or device (whether known as
- 3 a credit card or charge plate, or by any other name) issued by an issuer
- 4 for use by or on behalf of the credit card holder in obtaining property.
- 5 (e) "Credit card holder" means the person to whom or for whose
- 6 benefit the credit card is issued by an issuer.
- 7 (f) "Customer" means a person who receives or has contracted for
- 8 a utility service.
- 9 (g) "Entrusted" means held in a fiduciary capacity or placed in
- 10 charge of a person engaged in the business of transporting, storing,
- 11 lending on, or otherwise holding property of others.
- 12 (h) "Identifying information" means information that identifies an
- 13 individual, including an individual's:
- 14 (1) name, date of birth, Social Security number, or any
- 15 identification number issued by a governmental entity;
- 16 (2) unique biometric data, including the individual's fingerprint,
- 17 voice print, or retina or iris image;
- 18 (3) unique electronic identification number, address, or routing
- 19 code;
- 20 (4) telecommunication identifying information; or
- 21 (5) telecommunication access device, including a card, a plate, a
- 22 code, an account number, a personal identification number, an
- 23 electronic serial number, a mobile identification number, or other
- 24 another telecommunications service or device or means of
- 25 account access that may be used to:
- 26 (A) obtain money, goods, services, or any other thing of value;
- 27 or
- 28 (B) initiate a transfer of funds.
- 29 (i) "Insurance policy" includes the following:
- 30 (1) An insurance policy.
- 31 (2) A contract with a health maintenance organization (as defined
- 32 in IC 27-13-1-19).
- 33 (3) ~~An administrator contract~~ **A written agreement** entered into
- 34 under IC 27-1-25.
- 35 (j) "Insurer" has the meaning set forth in IC 27-1-2-3(x).
- 36 (k) "Manufacturer" means a person who manufactures a recording.
- 37 The term does not include a person who manufactures a medium upon
- 38 which sounds or visual images can be recorded or stored.
- 39 (l) "Make" means to draw, prepare, complete, counterfeit, copy or
- 40 otherwise reproduce, or alter any written instrument in whole or in part.
- 41 (m) "Metering device" means a mechanism or system used by a
- 42 utility to measure or record the quantity of services received by a

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customer.

(n) "Public relief or assistance" means any payment made, service rendered, hospitalization provided, or other benefit extended to a person by a governmental entity from public funds and includes poor relief, food stamps, direct relief, unemployment compensation, and any other form of support or aid.

(o) "Recording" means a tangible medium upon which sounds or visual images are recorded or stored. The term includes the following:

(1) An original:

(A) phonograph record;

(B) compact disc;

(C) wire;

(D) tape;

(E) audio cassette;

(F) video cassette; or

(G) film.

(2) Any other medium on which sounds or visual images are or can be recorded or otherwise stored.

(3) A copy or reproduction of an item in subdivision (1) or (2) that duplicates an original recording in whole or in part.

(p) "Slug" means an article or object that is capable of being deposited in a coin machine as an improper substitute for a genuine coin, bill, or token.

(q) "Utility" means a person who owns or operates, for public use, any plant, equipment, property, franchise, or license for the production, storage, transmission, sale, or delivery of electricity, water, steam, telecommunications, information, or gas.

(r) "Written instrument" means a paper, a document, or other instrument containing written matter and includes money, coins, tokens, stamps, seals, credit cards, badges, trademarks, medals, retail sales receipts, labels or markings (including a universal product code (UPC) or another product identification code), or other objects or symbols of value, right, privilege, or identification.

SECTION 27. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2003]: IC 27-1-18-5; IC 27-1-25-11; IC 27-1-25-12.

SECTION 28. [EFFECTIVE JULY 1, 2003] **(a) An administrator that has a certificate of registration issued under IC 27-1-25, before amendment by this act, on June 30, 2003, is considered to be licensed under IC 27-1-25, as amended by this act, until the expiration of the certificate of registration.**

(b) This SECTION expires June 30, 2006.



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1545, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 11, delete lines 41 through 42.

Page 12, delete lines 1 through 6.

Page 23, between lines 6 and 7, begin a new paragraph and insert:
"SECTION 21. IC 27-1-25.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]:

Chapter 25.1. Certain Insurer Responsibilities

Sec. 1. As used in this chapter, "affiliate" has the meaning set forth in IC 27-1-25-1(b).

Sec. 2. As used in this chapter, "insurer" has the meaning set forth in IC 27-1-25-1(l).

Sec. 3. As used in this chapter, "person" refers to a person described in IC 27-1-25-1(a)(15).

Sec. 4. The insurer with which a person is affiliated is responsible for:

- (1) the acts of the person; and**
- (2) providing the person's books and records to the commissioner.**

SECTION 22. IC 27-1-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. **(a)** If an insurer refuses to renew a policy of insurance written by the insurer, the insurer shall provide written notice of nonrenewal to the insured:

- (1) at least forty-five (45) days before the expiration date of the policy, if the coverage provided is for one (1) year, or less; or**
- (2) at least forty-five (45) days before the anniversary date of the policy, if the coverage provided is for more than one (1) year.**

(b) A notice of nonrenewal is not required if:

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;**
- (2) the transfer results in the same or broader coverage; and**
- (3) the insured approves the transfer.**

SECTION 23. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was

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procured by an agent duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to such agent at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by such agent.

This section shall not apply: (a) if the insurer has manifested its willingness to renew; nor (b) in case of nonpayment of premium: Provided, That, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies. **A notice of intention not to renew is not required if:**

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;**
- (2) the transfer results in the same or broader coverage; and**
- (3) the insured approves the transfer.**

Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal."

Page 27, delete line 38.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1545 as introduced.)

FRY, Chair

Committee Vote: yeas 13, nays 0.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1545, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

- Page 2, line 10, reset in roman "(a) During the period that a".
- Page 2, line 10, after "a" insert "**resident**".
- Page 2, line 10, reset in roman "surplus lines".
- Page 2, reset in roman lines 11 through 17.
- Page 2, line 18, reset in roman "termination. Upon termination of a".
- Page 2, line 18, after "of a" insert "**resident**".
- Page 2, line 18, reset in roman "license for which a bond was in".
- Page 2, reset in roman lines 19 through 22.
- Page 2, line 23, reset in roman "(b) A".
- Page 2, line 23, after "A" insert "**resident**".
- Page 2, line 23, reset in roman "surplus lines producer shall, at the time of an initial filing".
- Page 2, reset in roman lines 24 through 25.
- Page 2, line 26, reset in roman "year, the".
- Page 2, line 26, after "year, the" insert "**resident**".
- Page 2, line 26, reset in roman "surplus lines producer shall file proof that the bond remains".
- Page 2, reset in roman lines 27 through 28.
- Page 2, line 29, reset in roman "(c)".
- Page 2, line 29, delete "(a)".
- Page 2, line 40, reset in roman "(d)".
- Page 2, line 40, delete "(b)".
- Page 3, line 16, reset in roman "(e)".
- Page 3, line 16, delete "(c)".
- Page 3, line 26, reset in roman "(f)".
- Page 3, line 26, delete "(d)".
- Page 3, line 30, reset in roman "(g)".
- Page 3, line 30, delete "(e)".
- Page 3, line 35, reset in roman "(h)".
- Page 3, line 35, delete "(f)".
- Page 3, line 37, reset in roman "(i)".
- Page 3, line 37, delete "(g)".
- Page 3, line 42, reset in roman "(j)".

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Page 3, line 42, delete "(h)".

and when so amended that said bill do pass.

(Reference is to HB 1545 as printed February 7, 2003.)

PAUL, Chairperson

Committee Vote: Yeas 7, Nays 0.

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